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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,113	11/26/2003	Frederick James Diggle III	BE1-0040US	1315
49584	7590	11/04/2005		
LEE & HAYES, PLLC 421 W. RIVERSIDE AVE. SUITE 500 SPOKANE, WA 99201			EXAMINER STERLING, AMY JO	
			ART UNIT 3632	PAPER NUMBER

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,113

Applicant(s)

DIGGLE ET AL.

Examiner

Amy J. Sterling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-14,17,18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-14,17,18 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the **Final Office Action** for application number 10/723113 Devices and Methods for Preventing Damage to Wire, filed on 11/26/03. Claims 1-27 are pending. Claims 21-27 are withdrawn. This **Final Office Action** is in response to applicant's reply dated 8/30/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action.

Claim Rejections - 35 USC § 112

Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant originally disclosed that the invention included a latch or clamp however the examiner finds that the as the fastening device drawing submitted on September 24, 2004 is new matter. The applicant has attempted to incorporate a new drawing figure 1A including clamps or latches 17 or 15 which includes pivots. Although the original disclosure did contain a recitation of clamps and latches, the specifics of the clamps and lathces were not disclosed and now there is an apparent attempt to add new matter to the original disclosure by reciting specific details of the clamps and

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latches in the submission of the drawing 1A. The originally filed specification did not clearly describe how the clamps worked alone or in conjunction with the structure of the device or any structural limitations of the clamp and or latch for that matter. The structural limitations and specific details of the clamp or latch included in the figure 1A is new matter and should be removed from the application or a continuation in part should be filed by the applicant.

Claim Objections

Claims objected to because of the following informalities:

It is not clear whether the limitation[s] "the supporting structure" is/are intended to be a positive limitation of the claim or merely an environment for use of the device. If the limitation[s] is/are intended to be a positive limitation of the claim then the claim should recite "a" before the term " ". If the limitation is intended to be an intended use of the holding bracket, then the imitations of the claims should be changed to incorporate functional language such as "adapted to be" or "for use with".

Appropriate correction is required. The supporting structure has been recited in claim 1 as merely being a suggested use for such a device. Therefore claims 2 and 3 reciting the specific use, have not been given structural weight.

Claim Rejections - 35 USC § 102

Claims 1-4, 8-12, 14, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 6378175 to Vanderpan.

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Vanderpan discloses a plastic device (10, See Col. 3, line 26 for material selection) first curved end (28) with a small diameter with a latch or clamp (34) fastening device which pivots on a hinge, the first curved end for connecting the device to a supporting structure, wherein the first curved end fits over at least a portion of the supporting structure, and a second curved end shaped like a hook with a larger diameter, which is fixed in an open receiving position and pivots on a hinge, and has a curved inside surface with a plurality of grooves, the grooves having a diameter which approximates the diameter of a wire and wherein the grooves approximate the cross-sectional configuration of the wire, wherein the support can be used in the area of use with a ladder or ceiling component.

Claim Rejections - 35 USC § 103

Claims 1, 5, 6 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 5054581 to Henson and in view of United States Patent No. 5015205 to Franks, Jr.

Henson teaches the basic inventive concept including having a device (10) having a first curved end (26) which fits over at least a portion of a supporting structure and a second curved end (32), with a curved inside surface and which is fixed in an open receiving position with a curved inside surface, wherein a portion of the device is coated with a soft material which is rubber (51).

Henson does not disclose a plurality of grooves approximately the diameter and cross-sectional configuration of the diameter of a wire.

Franks, Jr. discloses a cable clamping device with a curved end (42) which has a plurality of grooves approximately the diameter and cross-sectional configuration of the diameter of a wire, used for further securing multiple cables to the device. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have added grooves in the device for further securing multiples of cables to the device.

Response to Arguments

The applicant has argued that the specification adequately supports the disclosure of a clamp or latch. This is unpersuasive in that no details or limitations were disclosed to the clamp or latch and therefore adding these details and limitations is new matter and should be cancelled from the disclosure.

The applicant has argued that the device as taught by Vanderpan does not disclose grooves that approximate the cross-sectional configuration of a wire. This is unpersuasive in that a wire, which may come in many shapes and sizes, may have a cross section that is approximately the shape of the grooves. Even if the wire cross section is circumferential, the grooves are approximately the same shape.


The arguments with reference to other references are moot in view of the new grounds of rejection.


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Conclusion

THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action. Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached at 571-272-6788. The fax machine number for the Technology center is 7571-273-8300 (formal amendments) or 571-273-6823 (informal amendments and communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600.


AJS
Amy J. Sterling
10/26/05

 10/31/05
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600